



Comptroller General  
of the United States

Washington, D.C. 20548

*Mr. Jordan*

## Decision

**Matter of:** Berkshire Computer Products

**File:** B-241393

**Date:** February 11, 1991

Ernest J. Parsons for the protester.  
Carl J. Peckinpaugh, Esq., Department of the Air Force, for the agency.  
Paul E. Jordan, Esq., Paul Lieberman, Esq., and John F. Mitchell, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

In purchase of automatic data processing equipment using nonmandatory schedule contract, agency properly rejected response submitted by protester which failed to provide information sufficient to establish that equipment offered met agency's minimum requirements.

### DECISION

Berkshire Computer Products protests the decision of the Department of the Air Force to purchase electronic mass storage equipment, by delivery order No. F19650-90-FB613, under Micro Technology Inc.'s (MTI) General Services Administration (GSA) nonmandatory Automatic Data Processing Equipment Schedule contract. Berkshire contends that the agency improperly deemed technically unacceptable its response submitted in response to the agency's notice published in the Commerce Business Daily (CBD).

We deny the protest.

The electronic mass storage equipment ordered by the Air Force is to be used by the Joint STARS Test Force. The Joint STARS is an airborne command and control platform that will provide tactical communications between operational commanders and forces in the field. The equipment ordered will be used to support analysis of test mission data.

Prior to publishing the CBD notice, the Air Force surveyed several manufacturers, including MTI. Based on this survey and the known requirements of the using facility, the Air

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Force prepared a summary of requirements for each item along with a proposed solution of equipment available under MTI's schedule contract. The CBD notice advised that the Air Force intended to purchase four MTI models of shared hard disk drives, three models of MTI dedicated hard disk drives, and one MTI erasable optical disk drive. The notice advised potential respondents that no contract award would be made on the basis of any response and that written responses were to include technical data in sufficient detail to determine the vendor's capability to meet the requirement. While no information on salient characteristics or technical requirements was provided in the notice, prospective vendors were furnished a copy of the requirements summary which set forth salient characteristics of each item.

Five firms, including Berkshire and MTI, responded to the CBD notice. When the responses were evaluated by agency technical personnel, only MTI was found technically acceptable. The evaluators found Berkshire's proposal deficient in two areas.

First, with respect to reliability, the requirements summary provided that the shared hard disks operate using a 5.25 inch platter distributed seek loading configuration.<sup>1/</sup> Berkshire's technical literature did not indicate that its shared hard disks provided the distributed seek loading feature. Second, the CBD notice indicated that the optical drive was to be an MTI model No. "MUSTANG with Two Drives." The requirements summary specifications for this item included its capacity, 500 megabytes (MB) without intervention,<sup>2/</sup> and a transfer rate of 1.25 MB per second. Berkshire's response offered a "Mustang Optical Subsystem" with two optical drives, but did not indicate the capacity or transfer rate. Since MTI manufactures more than one Mustang model, the evaluators were unable to determine whether Berkshire was offering a model which satisfied the required specifications.

The agency placed a delivery order with MTI on September 12, 1990, and sent Berkshire and the other respondents notice of their rejection. After learning of its rejection, Berkshire

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<sup>1/</sup> In some systems with multiple disk drives and multiple read/write heads, access to data is accomplished by all heads moving as a unit, with only the head closest to the needed data operating. Distributed seek loading is a design feature which allows a system to access data with physical movement of only the head closest to the data, thus decreasing wear.

<sup>2/</sup> The term "without intervention" means that the optical disk capacity of 500 MB must be available to the operator without the necessity of physically removing the disk and turning it over.

filed this protest with our Office. Because the protest was filed more than 10 calendar days after placement of the order, the acquisition was not stayed.

Berkshire contends that the Air Force improperly rejected its response to the CBD notice since its offered items met the agency's requirements. The Air Force replies that Berkshire's response failed to include technical data in sufficient detail to enable the agency to determine that Berkshire's proposed equipment was capable of meeting the requirement.

Although the Air Force listed the distributed seek loading feature as a reliability requirement, it is clear from the record that Berkshire's response to the CBD notice did not indicate that its shared hard disks possessed this capability. Moreover, although Berkshire asserts that there was no need for its literature to so state because this has become a common feature of this type of equipment, we are not persuaded on this record that this is so or that the Air Force otherwise should have assumed that Berkshire's equipment has this feature.<sup>3/</sup> With regard to the optical disk drive, Berkshire's response simply identified the "Mustang." Since Mustang refers to a number of models of optical drives, not all of which have the capacity and transfer rate listed as salient characteristics, the Air Force could not determine whether Berkshire's proposed solution was acceptable. Under the circumstances, we conclude that the Air Force reasonably rejected Berkshire's response.

Berkshire also complains that MTI failed to meet certain specifications. For example, MTI's technical literature indicates that its mean time between failure (MTBF) rating for shared hard disks is 40,000 hours, while 50,000 hours is specified on the requirements summary. In addition, the technical literature concerning the Mustang optical drive describes two media cartridges (296 MB and 464.5 MB per side), neither of which satisfies the 500 MB capacity, without intervention.

A comparison of the requirements summary and MTI's technical literature makes plain that MTI does not provide these identified features. However, it is apparent that the Air

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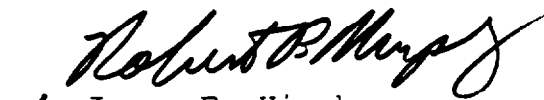
<sup>3/</sup> Berkshire notes that MTI's technical literature also does not indicate that it possesses this feature. The Air Force, however, notes that it was previously aware that MTI's item provided the distributed seek loading feature. Thus, the absence of reference to this feature by MTI, the FSS vendor whose equipment had been listed as the proposed solution, did not warrant rejection of MTI. See CNC Co., B-239328, July 30, 1990, 90-2 CPD ¶ 86.

Force was satisfied from the outset that the MTI equipment it specified in its CBD notice meets the minimum requirements which the Air Force intended to particularize in the requirements summary. In particular, the Air Force states that MTI's 464.5 MB per side cartridge meets its requirement for 500 MB capacity without intervention. In other words, it appears that the agency, rather than waiving its requirements for MTI, misstated its actual minimum needs in the requirements summary. Agencies are granted significant latitude in accepting, without notice, alternate items from vendors that are functionally equivalent, but do not possess all the features of the advertised item, so long as the alternative product is reasonably found to meet the agency's requirements and vendors are not prejudicially misled as to the nature of the government's minimum needs. See Lanier Business Products, Inc., B-240990, Jan. 14, 1991, 91-1 CPD ¶ \_\_\_\_; AZTEK, Inc., B-236612, Dec. 6, 1989, 89-2 CPD ¶ 521.

We find no basis to conclude that Berkshire was prejudiced here. Also, there is no evidence or suggestion that other vendors were misled. First, although Berkshire offered a product with an MTBF rating of 100,000 hours, it was rejected for reasons unrelated to the MTBF rating and has not indicated how its offer might have changed had it been aware of the agency's actual minimum need. Second, since Berkshire contends that it intended to offer the product MTI offered to meet the optical disk drive requirement, it could not have been prejudiced by the Air Force's description of the requirements for that piece of equipment.

Finally, Berkshire argues that it should have received the award because its price was more than \$46,000 less than MTI's. In view of Berkshire's failure to provide sufficient information for the Air Force to determine whether it could meet the agency's minimum needs, Berkshire's lower price is not relevant. See Intraspace Corp., 69 Comp. Gen. 351 (1990), 90-1 CPD ¶ 327.

The protest is denied.

  
for James F. Hinchman  
General Counsel